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Electronically Filed on _____

6 Attorneys for U.S. Bank National Association
As Trustee for CSFB ARMT 2006-3
7 File no. 09-75934

8 **UNITED STATES BANKRUPTCY COURT**
9 **DISTRICT OF NEVADA**

10 In Re:

BK-S-09-24694 LBR

11 CARLA MOCTEZUMA

Date: March 18, 2010

Time: 1:30 p.m.

12
13 Debtors.

Chapter 13

14
15 SECOND SUPPLEMENTAL OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN

16 COMES NOW, U.S. Bank National Association as Trustee for CSFB ARMT 2006-3, (Hereinafter
17 “Secured Creditor”), and files this Supplemental Objection to Confirmation of Chapter 13 Plan stating
18 as follows:

19 Secured Creditor is the first deed of trust holder on 2250 N. Lamb Boulevard, Las Vegas,
20 Nevada, (hereinafter “subject property”), and is owed over \$250,000.00. The Debtors filed a motion to
21 value and reduce Secured Creditor’s lien to \$120,000.00, which motion was heard on November 12,
22 2009, but no order has been entered as of yet and Secured Creditor is unsure of the outcome of the
23 hearing.
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1 On January 21, 2010, the Court denied the Debtor's attempt to confirm her Plan #2 over the
2 objection of the Trustee which was seeking a dismissal of the case. Debtor then filed Plan #3 on
3 February 8, 2010.

4 Secured Creditor asserts that this Court should not confirm Plan #3 and should dismiss the case
5 because the plan is far from feasible. The first two plans filed by Debtor included multiple balloon
6 payments of over \$99,000.00 to which this Secured Creditor and the Trustee objected.

7 Plan #3 does not provide for these balloon payments but instead attempts to have the Debtor
8 make a large payment \$390.36 over and above her net disposable income.

9 The Debtor does not have sufficient income to meet her plan requirements as can be seen in a
10 simple review of her Schedules "I" and "J". (Attached hereto as exhibit "A" and "B" respectively).

11 Taking into account both the employment and rental income this Debtor earns, it totals \$4,508.83
12 per month. After subtracting the Debtor's expenses outlined in Schedule "J", she has a net income of
13 \$237.38 per month, which is far less than the proposed plan payment of \$2,948.19. Even if one
14 presumes that that the Debtor would add back into her net income the \$2,320.00 in "Rental Mortgage"
15 expenditures on line 17 of Schedule "J". Plan #3 proposes to pay \$1,600.00 directly to another secured
16 creditor (on a rental property). leaving her with a net income of \$957.83 per month. This amount is
17 almost \$2,000 less than her proposed plan payment. ($\$237.38 + \$2,320.00 - \$1,600.00 = \957.83).

18 Furthermore, the Debtor's Schedule "J" does not budget for the costs of: 1) property taxes. 2)
19 insurance, or 3) maintenance necessary the two rental properties she proposes to keep.

20 Debtor's proposed Plan #3 places all the risk of further losses on this particular Secured Creditor
21 which has essentially been subsidizing this Debtor's rental business by paying the insurance on the
22 property for the last six (6) months that this Debtor has been attempting to confirm a plan.

23 11 U.S.C. 1326(a)(6) requires that a debtor be able to make all payments under the plan. This
24 Debtor has not shown an ability to do so.

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1 Until these Debtors can come before this Court with more information or income to properly
2 fund a plan, the Court should not confirm this plan for it does not have a reasonable likelihood of
3 success.

4 WHEREFORE, Secured Creditor asks that this Court deny confirmaiton and dismiss this case.

5 DATED this 16th day of February, 2010.

6
7 WILDE & ASSOCIATES

8 By  _____

9 **GREGORY L. WILDE, ESQ.**

10 Attorneys for Secured Creditor
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B6I (Official Form 6I) (12/07)

In re **Carla Moctezuma**

Case No. _____

Debtor(s)

SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S)

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by every married debtor, whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. Do not state the name of any minor child. The average monthly income calculated on this form may differ from the current monthly income calculated on Form 22A, 22B, or 22C.

Debtor's Marital Status:	DEPENDENTS OF DEBTOR AND SPOUSE	
Single	RELATIONSHIP(S):	AGE(S):
	Son	11
	Son	14
Employment:	DEBTOR	SPOUSE
Occupation	GRA	
Name of Employer	Monte Carlo Casino	
How long employed	5 years	
Address of Employer	3770 Las Vegas Boulevard Las Vegas, NV 89109	

INCOME: (Estimate of average or projected monthly income at time case filed)

1. Monthly gross wages, salary, and commissions (Prorate if not paid monthly)

2. Estimate monthly overtime

3. SUBTOTAL

4. LESS PAYROLL DEDUCTIONS

a. Payroll taxes and social security

b. Insurance

c. Union dues

d. Other (Specify): _____

5. SUBTOTAL OF PAYROLL DEDUCTIONS

6. TOTAL NET MONTHLY TAKE HOME PAY

7. Regular income from operation of business or profession or farm (Attach detailed statement)

8. Income from real property

9. Interest and dividends

10. Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above

11. Social security or government assistance

(Specify): _____

12. Pension or retirement income

13. Other monthly income

(Specify): **See Detailed Income Attachment**

14. SUBTOTAL OF LINES 7 THROUGH 13

15. AVERAGE MONTHLY INCOME (Add amounts shown on lines 6 and 14)

16. COMBINED AVERAGE MONTHLY INCOME: (Combine column totals from line 15)

(Report also on Summary of Schedules and, if applicable, on Statistical Summary of Certain Liabilities and Related Data)

17. Describe any increase or decrease in income reasonably anticipated to occur within the year following the filing of this document:

DEBTOR	SPOUSE
\$ <u>2,610.83</u>	\$ <u>N/A</u>
\$ <u>0.00</u>	\$ <u>N/A</u>
\$ <u>2,610.83</u>	\$ <u>N/A</u>
\$ <u>422.50</u>	\$ <u>N/A</u>
\$ <u>60.67</u>	\$ <u>N/A</u>
\$ <u>88.83</u>	\$ <u>N/A</u>
\$ <u>0.00</u>	\$ <u>N/A</u>
\$ <u>0.00</u>	\$ <u>N/A</u>
\$ <u>572.00</u>	\$ <u>N/A</u>
\$ <u>2,038.83</u>	\$ <u>N/A</u>
\$ <u>0.00</u>	\$ <u>N/A</u>
\$ <u>0.00</u>	\$ <u>N/A</u>
\$ <u>0.00</u>	\$ <u>N/A</u>
\$ <u>700.00</u>	\$ <u>N/A</u>
\$ <u>0.00</u>	\$ <u>N/A</u>
\$ <u>0.00</u>	\$ <u>N/A</u>
\$ <u>0.00</u>	\$ <u>N/A</u>
\$ <u>1,770.00</u>	\$ <u>N/A</u>
\$ <u>2,470.00</u>	\$ <u>N/A</u>
\$ <u>4,508.83</u>	\$ <u>N/A</u>
\$ <u>4,508.83</u>	

RENTAL
INCOME

EXHIBIT

A

B61 (Official Form 61) (12/07)

In re Carla Moctezuma

Debtor(s)

Case No. _____

SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S)**Detailed Income Attachment****Other Monthly Income:**

<u>Rental Income</u>	\$ <u>300.00</u>	\$ <u>N/A</u>
<u>Rental Income</u>	\$ <u>300.00</u>	\$ <u>N/A</u>
<u>Rental Income</u>	\$ <u>300.00</u>	\$ <u>N/A</u>
<u>Rental income</u>	\$ <u>870.00</u>	\$ <u>N/A</u>
<u>Total Other Monthly Income</u>	\$ <u>1,770.00</u>	\$ <u>N/A</u>

B6J (Official Form 6J) (12/07)

In re Carla Moctezuma

Debtor(s)

Case No. _____

SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S)

Complete this schedule by estimating the average or projected monthly expenses of the debtor and the debtor's family at time case filed. Prorate any payments made bi-weekly, quarterly, semi-annually, or annually to show monthly rate. The average monthly expenses calculated on this form may differ from the deductions from income allowed on Form 22A or 22C.

☐ Check this box if a joint petition is filed and debtor's spouse maintains a separate household. Complete a separate schedule of expenditures labeled "Spouse."

1. Rent or home mortgage payment (include lot rented for mobile home)	\$	<u>1,250.00</u>
a. Are real estate taxes included? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		
b. Is property insurance included? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		
2. Utilities:		
a. Electricity and heating fuel	\$	<u>135.00</u>
b. Water and sewer	\$	<u>86.00</u>
c. Telephone	\$	<u>65.00</u>
d. Other _____	\$	<u>0.00</u>
3. Home maintenance (repairs and upkeep)	\$	<u>0.00</u>
4. Food	\$	<u>350.00</u>
5. Clothing	\$	<u>0.00</u>
6. Laundry and dry cleaning	\$	<u>0.00</u>
7. Medical and dental expenses	\$	<u>0.00</u>
8. Transportation (not including car payments)	\$	<u>65.00</u>
9. Recreation, clubs and entertainment, newspapers, magazines, etc.	\$	<u>0.00</u>
10. Charitable contributions	\$	<u>0.00</u>
11. Insurance (not deducted from wages or included in home mortgage payments)		
a. Homeowner's or renter's	\$	<u>0.00</u>
b. Life	\$	<u>0.00</u>
c. Health	\$	<u>0.00</u>
d. Auto	\$	<u>0.00</u>
e. Other _____	\$	<u>0.00</u>
12. Taxes (not deducted from wages or included in home mortgage payments) (Specify) _____	\$	<u>0.00</u>
13. Installment payments: (In chapter 11, 12, and 13 cases, do not list payments to be included in the plan)		
a. Auto	\$	<u>0.00</u>
b. Other _____	\$	<u>0.00</u>
c. Other _____	\$	<u>0.00</u>
14. Alimony, maintenance, and support paid to others	\$	<u>0.00</u>
15. Payments for support of additional dependents not living at your home	\$	<u>0.00</u>
16. Regular expenses from operation of business, profession, or farm (attach detailed statement)	\$	<u>0.00</u>
17. Other <u>Rental Mortgage</u>	\$	<u>2,320.00</u>
Other _____	\$	<u>0.00</u>

18. AVERAGE MONTHLY EXPENSES (Total lines 1-17. Report also on Summary of Schedules and, if applicable, on the Statistical Summary of Certain Liabilities and Related Data.)

\$ 4,271.00

19. Describe any increase or decrease in expenditures reasonably anticipated to occur within the year following the filing of this document:

20. STATEMENT OF MONTHLY NET INCOME

a. Average monthly income from Line 15 of Schedule I	\$	<u>4,508.83</u>
b. Average monthly expenses from Line 18 above	\$	<u>4,271.00</u>
c. Monthly net income (a. minus b.)	\$	<u>237.83</u>

+ 2320

2557.83PAYMENT PLAN #3 2948.19<390.36>

EXHIBIT

B

WILDE & ASSOCIATES

Electronically Filed on _____

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U.S. Bank National Association, as Trustee for CSFB ARMT 2006-3
09-75934 / 1205317106

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In Re:

BK-S-09-24694-lbr

Carla Moctezuma

Date: March 18, 2010
Time: 1:30pm

Debtor.

Chapter 13

CERTIFICATE OF MAILING

1. On 2-17-10, I served the following document(s):

*SECOND SUPPLEMENTAL OBJECTION TO CONFIRMATION OF CHAPTER 13
PLAN*

2. I served the above-named document(s) by the following means to the persons as listed
below:

(Check all that apply)

- 1 ■ **a. ECF System** *(You must attach the "Notice of Electronic Filing", or list all persons and addresses*
2 *and attach additional paper if necessary)*

3
4 Jorge L. Sanchez
5 jsanchez@sanchezlawgroup.net
6 Attorney for Debtor

7 Rick A. Yarnall
8 ecfmail@lasvegas13.com
9 Trustee

- 10 ■ **b. United States mail, postage fully prepaid** *(List persons and addresses. Attach*
11 *additional paper if necessary)*

12 Carla Moctezuma
13 3990 East Carey Avenue #24
14 Las Vegas, NV 89115
15 Debtor

16 Jorge Sanchez
17 Sanchez Law Group
18 900 South Forth Street, Ste. 100
19 Las Vegas, NV 89101
20 Attorney for Debtors

- 21 □ **c. Personal Service** *(List persons and addresses. Attach additional paper if necessary)*

22 I personally delivered the document(s) to the persons at these addresses:

- 23
24 □ For a party represented by an attorney, delivery was made by handing the document(s) to the
25 attorney's office with a clerk or other person in charge, or if no one is charge by leaving the document(s)
26 in a conspicuous place in the office.

- For a party, delivery was made by handing the document(s) to the party or by leaving the
document(s) at the person's dwelling house or usual place of abode with someone of suitable age and
discretion residing there.

☐ **d. By direct mail (as opposed to through the ECF System)**

(List persons and email addresses. Attach additional paper if necessary)

Based upon the written assignment of the parties to accept service by email or a court order, I caused the document(s) to be sent to the persons at the mail addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

☐ **e. By fax transmission** *(List persons and fax numbers. Attach additional paper if necessary)*

Based upon the written assignment of the parties to accept service by fax transmission or a court order, I faxed the document(s) to the persons at the fax numbers listed below. No error was reported by the fax machine that I used. A copy of the record of the fax transmission is attached.

☐ **f. By messenger** *(List persons and addresses. Attach additional paper if necessary)*

I served the document(s) by placing them in an envelope or package addressed to the persons at the addresses listed below and providing them to a messenger for service.

(A declaration by the messenger must be attached to this Certificate of Service).

I declare under penalty of perjury that the foregoing is true and correct.

Signed on (date): 2-17-10

Christina Watkins
DECLARANT


SIGNATURE OF DECLARANT